

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FRANK SHAWNTE ALLEN,

Petitioner,

v.

CONNIE GIPSON,

Respondent.

NO. CV 14-888-R (AGR)

ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the petition, records on file, and the Report and Recommendation of the magistrate judge. Further, the Court has engaged in a *de novo* review of those portions of the Report to which Petitioner has objected. The Court accepts the findings and recommendation of the magistrate judge.

Petitioner was convicted in 1991. (Report at 2.) The Report recommended dismissal of the petition with prejudice based on expiration of the statute of limitations.

In the context of arguing actual innocence, Petitioner argued that trial counsel failed to interview a witness named Troy Young. (Report at 8.) The Report stated that Petitioner did not identify who the witness was or what

1 testimony he would have provided. (*Id.*) Petitioner argues he named the witness
2 in Ground Three of the petition. (Objections at 10.) The crux of Petitioner's
3 argument is that he acted in self-defense and therefore was not guilty. (*Id.*) As
4 stated in the Report, even if one accepts Petitioner's version of the events, the
5 use of deadly force was not justified under California law. (Report at 9 (citations
6 omitted).)

7 Petitioner's remaining objections are without merit.

8 IT IS ORDERED that judgment be entered denying the petition and
9 dismissing this action with prejudice.

10
11 DATED: May 19, 2014



MANUEL L. REAL
United States District Judge